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January 5, 2009

Hon. Leo T. Sorokin  
United States Magistrate Judge  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way  
Boston, MA 02210

**RE: United States v. Tarek Mehanna  
No. 08-CR-148-LTS**

Dear Judge Sorokin,

Happy New Year.

On December 9, 2008, Your Honor issued an Order On Government's Motion For Detention in which the Court set conditions of release in the above case. Among the numerous requirements were that the defendant's parents had to post (1) their home in Sudbury (which they own free and clear of encumbrances), (2) the defendant's father's retirement account (through Mass. College of Pharmacy, where he is a professor), and (3) \$100,000.

The Court's mortgage for the home has been recorded with the Middlesex Registry of Deeds, and the \$100,000 provided to the Clerk. A letter was sent to the holder of the retirement account, TIAA-CREF, instructing it to (1) prevent the withdrawal of retirement account funds during the pendency of the defendant's case, and (2) authorizing the court to take the retirement account funds in the event the court so orders.

I have received a telephone call from legal counsel of TIAA-CREF informing me that the Court's Order is in violation of the Federal ERISA law. She told me that there are extremely limited situations where any entity, including a Federal Court, can put a restriction on a retirement account, and posting it for bail is not one of them. The legal counsel indicated that she would forward me a letter discussing this in greater detail, and I will provide it to the Court and the prosecutors when I receive it.

My client and I are available to appear before Your Honor at any time to discuss the matter further.

Yours sincerely,

/s/ J. W. Carney, Jr.

J. W. Carney, Jr.

JWC/

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/s/ J. W. Carney, Jr.

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